

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Friday October 1, 1999

DIVISION ONE

A085981 -- The People v. Michael Sumler.

There was no sentencing error. There are no issues that require further briefing. The judgment is affirmed. Strankman, P.J. We concur: Stein, J., Swager, J. (Not for Publication.)

A084791 -- The People v. Mona M. Burks.

The judgment is affirmed. Strankman, P.J. We concur: Stein, J., Marchiano, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Monday, October 4, 1999

DIVISION TWO

A083527 -- Christopher W. Macdonald and Nicole M. Macdonald, v. Eric J. Lefholz.

The judgment is affirmed. Kline, P.J. We concur: Haerle, J., Lambden, J. (Not for Publication.)

A081289 -- Ermias Yohannes and Meron Yohannes, by and through their Guardian Ad Litem, Mebrahtu Yohannes, v. Lakeshore Avenue Baptist Church, Inc. et al.

Finally, neither the fact that the jury was initially deadlocked, nor the fact that the ratio of jury votes changed from 8:4 to 10:2 for respondents, indicates the jury was misled or confused rather than simply in disagreement. For the foregoing reasons, the judgment is affirmed. Kline, P.J. We concur: Lambden, J., Ruvolo, J. (Not for Publication.)

Monday, October 4, 1999 (continued)

**A087691 -- Dee G., v. The Superior Court of the County of San Francisco;
San Francisco County Department of Human Services, R.P.I.**

The petition for extraordinary writ review and request for stay is denied on the merits. (See Cal. Const., art. VI, § 14; Cal. Rules of Court, rule 39.1B(o); *Kowis v. Howard* (1992) 3 Cal.4th 888, 894.) Petitioner is barred in any subsequent appeal from making further challenges to the terminating reunification services and setting a hearing under section 366.26. (Subd. (l).) Because the section 366.26 hearing is set for October 13, 1999, our decision is final as to this court immediately. (Cal. Rules of Court, rule 24(d).) Jones, P.J. We concur: Haning, J, Stevens, J. (Not for Publication.)

MINUTES

CALIFORNIA COURT OF APPEAL FIRST APPELLATE DISTRICT DIVISION ONE

Monday, October 4, 1999

The Court convened at 9:00 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Strankman, P.J., Swager, J., and Marchiano, J.; N. Millner, Deputy Clerk; and CHP Officer L. Kempf , Bailiff.

- A083693 The People,
 v.
 Jeffrey Dwayne McDonald.
Cause called and argued by J. Courtney Shevelson, via teleconference, counsel for appellant, and Linda Murphy, Deputy Attorney General, counsel for respondent. Cause ordered submitted.
- A085420 The People,
 v.
 Henry Houston Ganther.
Cause called and argued by Kathryn E. Collier, counsel for appellant, and Peter A. Sell, certified law student, appearing on behalf of respondent. Cause ordered submitted.
- A085322 In re Dante R.
 The People,
 v.
 Dante R.
Cause called and argued by Carol Sani-Bishart, counsel for appellant, and Ronald S. Matthias, Deputy Attorney General, counsel for respondent. Cause ordered submitted.
- A082586 Howard Specter,
 v.
 Godfrey Tencer.
Cause called and argued by William F. Adams, counsel for appellant, and John A. Safyurtlu, counsel for respondent. Cause ordered submitted.

A082083 Rodney Rowlett, et al.,

v.

Andrea Lynn, et al..

Cause called and argued by Lee Rowlett, via teleconference, appellant in pro per, and Stanley Smith, counsel for respondents. Cause ordered submitted.

Court recessed until 1:30 p.m.

MINUTES

CALIFORNIA COURT OF APPEAL FIRST APPELLATE DISTRICT DIVISION ONE

Monday, October 4, 1999

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Strankman, P.J., Stein, J., and Swager, J.; B. Robbins, Deputy Clerk; and CHP Officer S. Aldridge, Bailiff.

A085377 Mark West Creek Preservation, et al.
 v.
 County of Sonoma;
 Shiloh Associates, et al.
Cause called and argued by Rose M. Zoia, counsel for appellants, and Clay Clement, counsel for respondents Shiloh Associates et al. Cause ordered submitted.

A085544 Harriet Smith,
 v.
 Wayne Jeronimus, et al..
Cause called and argued by Harriet Smith, appellant in pro per, and Christine Daniels, Deputy City Attorney, counsel for respondent. Cause ordered submitted.

At this point in the proceedings, Justice Swager left the bench and Justice Marchiano joined the bench for the remainder of the calendar.

A084640 Barbara Luhrs,
 v.
 Business Wire, et al.
Cause called and argued by Elizabeth Williams, counsel for appellant, and J. Neil Gielegem, counsel for respondents. Cause ordered submitted.

A084335 Bernard Schindler,
 v.
 East Bay Cash Register Systems.
Cause called and argued by James Braden, counsel for appellant, and Bryce C. Anderson, counsel for respondent. Cause ordered submitted.

A085633 Hillside Park East Homeowners Association, Inc.,
v.
Marco A. Vidal Properties, et al.
Cause called and argued by Scott A. Williams, counsel for appellant, and
Alan Packer, counsel for respondents. Cause ordered submitted.

Court recessed until Tuesday, October 5, 1999 at 9:00 a.m.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Tuesday, October 5, 1999

DIVISION ONE

A086101 -- The People v. Eddie Ernest Prusener.

Appellant was represented by counsel throughout the proceedings. There was no sentencing error. There are no issues that require further briefing. The judgment is affirmed. Stein, J. We concur: Strankman, P.J., Swager, J.
(Not for Publication.)

A084919 -- Rick Paden v. Louis J. Goodman, et al.

The trial court did not abuse its discretion in sustaining the demurrer to appellant's first amended complaint without leave to amend. The judgment is affirmed. Stein, J. We concur: Strankman, P.J., Marchiano, J. (Not for Publication.)

DIVISION FOUR

A085087 -- International Championship Management, Inc., v. Mana Corporation.

The judgment is affirmed. Hanlon, P.J. We concur: Reardon, J., Sepulveda, J.
(Not for Publication.)

A084732 -- Kenneth Keltner et al., v. City of Eureka.

The summary judgment is affirmed. The parties shall bear their respective costs. Poché, Acting P.J. We concur: Reardon, J., Sepulveda, J. (Not for Publication.)

DIVISION FIVE

A083847 -- The People v. Revelino Mendoza Alcones.

We affirm the judgment. Jones, P.J. We concur: Haning, J., Stevens, J. (Not for Publication.)

MINUTES

CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION ONE

Tuesday, October 5, 1999

The Court reconvened at 9:00 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Stein, Acting P.J., Swager, J, and Marchiano, J.; N. Millner, Deputy Clerk; and CHP Officer L. Thomas, Bailiff.

A084123/ The People,
A087977 v.
Dennis Cerrano.
In re Dennis Cerrano on Habeas Corpus
Cause called and argued by William D. Farber, counsel for appellant, and Christopher Wei, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

A081646 The People,
v.
Josphe Delano Walters.
Cause called and argued by Arlene A. West, counsel for appellant, and Christopher Wei, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

A085004 Paul C.P. Cheng,
v.
California Pacific Bank.
Cause called and argued by Arnold Rosenberg, counsel for appellant, and James S. Monroe, counsel for respondent. Cause ordered submitted.

A086912 John Freeman, et al.,
v.
Richard C. Wharton, et al.
Cause called and argued by Arlo Hale Smith, counsel for appellants, and Richard Henderson, counsel for respondents. Cause ordered submitted.

Court adjourned.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Wednesday, October 6, 1999

DIVISION ONE

A083687 -- San Francisco Forty-Niners, v. Naomi Nishioka, as Acting Director, etc., et al; Douglas Comstock et al, R.P.I.

The judgment granting the peremptory writ of mandate is affirmed. Marchiano, J. We concur: Strankman, P.J., Swager, J. (Certified for Publication.)

A084441 -- The People v. Dwight L. Boudreaux.

We find no meritorious issues to be argued. The judgment is affirmed. Swager, J. We concur: Strankman, P.J., Marchiano, J. (Not for Publication.)

DIVISION TWO

A083969/A086084 -- In re Marriage of Kahan.

The orders are affirmed. Costs on appeal are awarded to mother to the extent they were not already included in the trial court's December 30, 1998, order. Haerle, J. We concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

A085431 -- The People v. Rafael Torres Arteaga.

Accordingly, the judgment is affirmed. Lambden, J. We concur: Kline, P.J. , Ruvolo, J. (Not for Publication.)

Wednesday, October 6, 1999 (continued)

DIVISION FOUR

A082063 -- John King et al., v. National Benevolent Association of the Christian Church (Disciples of Christ) et al.

We affirm the judgment on the verdicts in favor of the parent plaintiffs. We affirm the judgment of liability and entitlement to damages of the disabled adult plaintiffs. We reverse the awards of damages in favor of the disabled adult plaintiffs because of an erroneous and prejudicial collateral source instruction and remand the cause for further proceedings on the amount of these damages. We affirm the summary adjudication in respondents' favor on SPA's claims for enforcement of a right of first refusal and breach of charitable trust. Each party to bear its own cost on appeal. Reardon, J. We concur: Hanlon, P.J., Poché, J. (Not for Publication.)

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION THREE

Wednesday, October 6, 1999

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California.

Present: McGuiness, P.J., Walker, J., Parrilli, J. and I. Calanoc, Deputy Clerk.

A080733 The People,
 v.
 Gregory Sean Merritt.
Justice McGuiness announced that Justice Corrigan would not be present at oral argument. Both counsel waived Justice Corrigan's presence and had no objection to her listening to the tape proceedings. Cause called and argued by Walter Pyle, counsel for appellant, and Deputy Attorney General Raymond Cardozo, counsel for respondent. Cause ordered submitted.

A084555 Jane O. Rising,
 v.
 David W. Rising.
The judicial panel for this case is McGuiness, P.J., Parrilli, J. and Walker, J. Cause called and argued by Bernard Wolf, counsel for appellant, and Cecilia Lannon, counsel for respondent. Cause ordered submitted. At this point, McGuiness, P.J. left the bench.

A081437 Heather Preston,
 v.
 State Board of Equalization.
Justice Parrilli reiterated to counsel Justice Corrigan's absence. Both counsel had no objection and waived Justice Corrigan's presence. Cause called and argued by Nicholas Blonder, counsel for appellant, and Paul Gifford, counsel for respondent. Cause ordered submitted.

A084902 Bradford M. Tomokiyo,

v.

City and County of San Francisco.

Counsel stipulated to waive the presence of Justice Corrigan. Cause called and argued by Owen Martikan, counsel for appellant, and Eugene Elliott, counsel for respondent. Cause ordered submitted.

Court Adjourned

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Thursday, October 7, 1999

DIVISION TWO

**A085560 -- Robert Marx, et al., v. Board of Directors of Bel Marin Keys
Community Services District, et al.**

The judgment is affirmed. Haerle, Acting P.J. We concur: Lambden, J., Ruvolo, J. (Not for Publication.)

A083810 -- The People v. Walter Eduardo Elias.

The record supports the findings of the trial judge that appellant's consent to search his pockets was voluntary and not limited in scope. Therefore, the search of the wallet found in appellant's pocket did not exceed the scope of consent and the motion to suppress the evidence was properly denied. The judgment is affirmed. Lambden, J. We concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

**A082935 -- West Coast Contractors, Inc., et al., v. City of Pinole
Redevelopment Agency; Contra Costa County Building and Constructions Trades
Council, AFL-CIO, R.P.I.**

The order granting attorney fees is reversed, and the Council is awarded costs on appeal. Lambden, J. We concur: Kline, P.J., Haerle, J. (Not for Publication.)

**A087852 -- In re Michael D. et al., Persons Coming Under the Juvenile Court
Law.**

Having concluded that the Department failed to comply with the ICWA's notice requirements, we remain faced with the question of how this failure affects the 12-month review proceeding, which is the subject of this writ. Because we have found that the orders made by the juvenile court at the 12-month review hearing were amply supported by the law and the evidence, and because there has been no determination at this juncture that the ICWA even applies to this proceeding, we conclude there is no reason to grant the writ. We instead adopt the

Thursday, October 7, 1999 (continued)

same approach taken by other appellate courts that have addressed a lower court's failure to provide adequate notice under 25 U.S.C. § 1912(a), and remand so that the Department may provide proper notice to all interested tribes. (See, e.g., *In re Junious M.*, *supra*, 144 Cal.App.3d at pp. 797-798.) We therefore remand to the juvenile court for notice according to the ICWA. If the notified tribes do not seek to intervene, the original orders will stand. (See *In re Carlos G.* (1999) 74 Cal.App.4th 1138, petn. for review filed Sept. 16, 1999.) If it is determined that the children are Indian children entitled to the protection of the ICWA, further proceedings consistent with the ICWA will be necessary.

The petition for extraordinary relief is denied on the merits consistent with the views expressed in this opinion. (See Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888.) Because the permanency planning hearing is set for November 2, 1999, our decision is final as to this court immediately. (Rule 24(d).) Ruvolo, J. We concur: Kline, P.J., Haerle, J. (Not for Publication.)

Thursday, October 7, 1999 (continued)

A085565 -- Jane Lindstrom v. Richard Gabel.

The judgment of the trial court is affirmed. Ruvolo, J. We concur: Kline, P.J., Haerle, J. (Not for Publication.)

DIVISION FOUR

A082611 -- Commerce & Industry Insurance Company v. Chubb Custom Insurance Company.

The summary judgment is reversed and the cause is remanded to the trial court with directions to enter judgment for Commerce in the amount of \$23,404,500. The parties shall bear their respective costs of appeal. Poché, Acting P.J. We concur: Reardon, J., Sepulveda, J. (Certified for Publication.)

A083975 -- In re Marriage of Lynette M., and Hugh C. Callahan.

The denial order is affirmed. Reardon, J. We concur: Poché, Acting P.J., Sepulveda, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Friday, October 8, 1999

DIVISION ONE

A084640 -- Barbara J. Luhrs v. Business Wire et al.

The judgment is affirmed. Strankman, P.J. We concur: Stein, J., Marchiano, J. (Not for Publication.)

DIVISION TWO

A084336 -- Wayne Leasing Corporation v. Vipul N. Bulsara.

The judgment is affirmed. Bulsara is to pay costs. Lambden, J. We concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

A085334 -- The People v. Derrick Eugene Brown.

The judgment is affirmed. Lambden, J. We concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

A085245 -- The People v. Vincent James Galio.

The abstract of judgment is ordered corrected to reflect a sentence of three years. In all other respects, the judgment is affirmed. Lambden, J. We concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

A087888 & A087889 -- County of Lake v. Donald K. Deuchar et al.

The appeals are dismissed. Lambden, J. We concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

Friday, October 8, (continued)

DIVISION FIVE

A083720 -- James H. Fisher v. A.P. Kane et al.

The order sustaining the demurrer without leave to amend is reversed, and the matter is remanded with instruction to grant appellant leave to amend. Haning, J We concur: Jones, P.J., Stevens, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Tuesday, October, 12, 1999

DIVISION ONE

A085943 -- The People v. Jeffrey Wayne French.

The judgment is affirmed. Strankman, P.J. We concur: Swager, J., Marchiano, J.
(Not for Publication.)

A082083 -- Rodney Rowlett et al. v. Andrea Lynn.

The trial court correctly concluded that Lynn was entitled as a matter of right to her costs, including attorney fees. The judgment is affirmed. Costs, including reasonable attorney fees on appeal, to respondent. Strankman, P.J. We concur: Swager, J., Marchiano, J. (Not for Publication.)

A083693 -- The People v. Jeffrey Dwayne McDonald.

Appellant's Convictions of forcible rape (Count 2), sodomy (Count 4), oral copulation (Counts 6, 8, 10, and 12), and forcible penetration by means of a foreign object (Count 14) are reversed. The matter is remanded to the trial court with directions to strike the conviction of conspiracy to commit attempted murder (Count 18) and substitute in its place conviction of conspiracy to obstruct justice, with the sentence for that offense stayed under section 654, and to modify the abstract of judgment to reflect all these changes. As modified, the judgment is affirmed. The trial court is directed to forward the amended abstract of judgment to the Department of Corrections. Strankman, P.J. We concur: Swager, J., Marchiano, J. (Not for Publication.)

A085594 -- The People v. Rick Foreman.

The judgment is affirmed. Swager, J. We concur: Stein, Acting P.J., Marchiano, J. (Not for Publication.)

Tuesday, October 12, 1999 (continued)

A086341 -- In re Michael G., a Person Coming Under the Juvenile Court Law.

We find no meritorious issues to be argued. The judgment is affirmed.
Marchiano, J. We concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

A085322 -- In re Dante R., a Person Coming Under the Juvenile Court Law.

The disposition order is reversed and the matter remanded for preparation and consideration of the statutorily-mandated disposition report of the probation officer.
Marchiano, J. We concur: Strankman, P.J., Swager, J. (Not for Publication.)

DIVISION TWO

A088572 -- California Expanded Metal Products Company, et al., v. Superior Court of Contra Costa County; James A. Degroot et al, R.P.I.

By The Court: The petition for writ of mandate/prohibition/stay is denied. Kline, P.J.

A088597 -- Ford Motor Company v. Superior Court of Contra Costa County; Manpreet Kaler, R.P.I.

By The Court: The petition for writ of mandate/prohibition/stay is denied. Kline, P.J.

A088479 -- In re Jeffrey Dee Gray, on Habeas Corpus.

By The Court: The petition for writ of habeas corpus is denied. Kline, P.J.

A083342 -- The People v. Rowland Dewitt Pugh.

The judgment is affirmed. Haerle, J. We concur: Kline, P.J., Lambden, J. (Not for Publication.)

Tuesday, October 12, 1999 (continued)

DIVISION FIVE

A083099 -- The People v. Craig Clifford Busch.

The judgment of conviction and order denying probation are affirmed. Stevens, J.
We concur: Jones, P.J., Haning, J (Not for Publication.)

MINUTES
CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION FOUR

Tuesday, October 12, 1999

The Court met at 9:30 a.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco. Present: Poche, Acting P.J., Sepulveda, J. and Swager, J. of Division One, pro tem; Channing Hoo, Deputy Clerk; Lorrie Kempf, Bailiff.

A080592 People v. Mendes Stanley Brown
A086546 In re Mendes Stanley Brown on Habeas Corpus
Causes called. Thomas Lundy argued for appellant/petitioner Brown. Raymond Cardozo argued for respondent. Causes submitted.

At this point, the court reconstituted itself to include Hanlon, P.J., and Poche, J.

A085036 Contra Costa County
v.
Terrance George Hawkins
Cause called. Counsel confirmed earlier waiver of Justice Reardon's presence on the bench. Bruce Zelis argued for appellant Hawkins. Mary Roth argued for respondent. Cause submitted.

The Court adjourned at 10:30 a.m.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Wednesday, October 13, 1999

DIVISION ONE

A081165 -- The People v. Kevin Lopez Tadema et al.

Accordingly, the judgments are affirmed. Swager, J. Stein, Acting P.J., Marchiano, J. (Not for Publication.)

DIVISION THREE

A084902 -- Bradford M. Tomokiyo v. City and County of San Francisco.

The judgment is affirmed. Costs to plaintiff/respondent. Parrilli, J. We concur: Corrigan, Acting P.J., Walker, J. (Not for Publication.)

A080733 -- The People v. Gregory Sean Merritt.

The judgment is reversed. McGuiness, P.J. We concur: Corrigan, J., Walker, J. (Not for Publication.)

DIVISION FOUR

A087984 -- In re Samantha R. & William R., Persons Coming Under the Juvenile Court Law.

The order terminating reunification services and setting a Selection Implementation Hearing (§ 366.26) complies with the governing law and is supported by substantial evidence. The petition for an extraordinary writ is denied on the merits. (Welf. & Inst. Code, § 366.26, subd. (l); Cal. Rules of Court, rule 39.1B(o); see *In re Julie S.* (1996) 48 Cal.App.4th 988, 990-991.) Our decision in this court is final immediately. Hanlon, P.J. We concur: Poché, J., Sepulveda, J. (Not for Publication.)

Wednesday, October 13, 1999 (continued)

A080034 -- Gina Lavoy v. City of Livermore.

The judgment is affirmed. The City to bear costs of appeal. McGuiness, P.J. We concur: Corrigan, J., Walker, J. (Not for Publication.)

DIVISION FIVE

A071743/A074712 -- Pedro Garcia v. David Pope.

The orders of the trial court are affirmed. Stevens, J. We concur: Jones, P.J., Haning, J (Not for Publication.)

A084366/A085467 -- John Doe v. Stephen O'Brien, et al.

The judgments of the trial court are affirmed. Stevens, J. We concur: Jones, P.J., Haning, J (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Thursday, October 14, 1999

DIVISION ONE

A088145 -- In re Selena H., et al., a Person Coming Under the Juvenile Court Law.

The challenged orders are supported by substantial evidence. (*James B. v. Superior Court* (1995) 35 Cal.App.4th 1014, 1021.) The petition for extraordinary writ is denied on the merits. (See Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888, 894; *Bay Development, Ltd. v. Superior Court* (1990) 50 Cal.3d 1012, 1024.)

The section 366.26 hearing is set for November 2, 1999. Therefore, our decision is final in this court immediately. Swager, J. We concur: Strankman, P.J., Marchiano, J. (Not for Publication.)

DIVISION TWO

A088602 -- Sally Liu v. The Superior Court of San Francisco County; San Bruno Supermarket, et al, R.P.I.

By the Court: The petition for writ of mandate is denied. Haerle, Acting P.J.

A083202 -- Charles Alexander et al. v. The State Personnel Board et al., California Department of Corrections et al., R.P.I.

The judgment is affirmed. Kline, P.J. We concur: Lambden, J., Ruvolo, J. (Not for Publication.)

Thursday, October 14, 1999 (continued)

DIVISION THREE

A082653 -- The People v. Laron Maurice Hawkins.

Affirmed. Walker, J. We concur: Corrigan, Acting P.J., Parrilli, J. (Not for Publication.)

A083852 -- In re the Marriage of Cheryl and Charles Fockaert.

We affirm, and award costs to Wells. Walker, J. We concur: McGuinness, P.J., Parrilli, J. (Not for Publication.)

DIVISION FIVE

A084982 -- Thomas A. King et al., v. Thomas C. Clark.

A085684 -- Thomas C. Clark v. Thomas A. King et al.

The orders of the trial court are affirmed. Stevens, J. We concur: Jones, P.J., Haning, J. (Not for Publication.)

A084772 -- The People v. Marion Reynolds Stogner.

The order denying the motion to reinstate the complaint is reversed. Jones, P.J. We concur: Haning, J, Stevens, J. (Not for Publication.)

A086290 -- The People v. Kimbu Jamal Allen.

Substantial evidence supports the court's findings that appellant violated the terms of his probation by resisting arrest. Appellant was represented by counsel throughout the proceedings. Appellant's probation revocation hearing comported with the elements of due process enunciated in *The People v. Vickers* (1972) 8 Cal.3d 451. There was no sentencing error. There are no issues that require further briefing. The order revoking probation is affirmed. Jones, P.J. We concur: Haning, J, Stevens, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Friday, October 15, 1999

DIVISION FIVE

A086134 -- The People v. Jason V.

The order of the trial court is affirmed. Stevens, J. We concur: Jones, P.J., Haning, J. (Not for Publication.)

A084157 -- Estate of Joseph Lorenz, Deceased.

We vacate that portion of the probate court's order relating to appellants' request for attorney fees and remand for further proceedings consistent with this opinion. Costs on appeal to appellants. Jones, P.J. We concur: Haning, J, Stevens, J. (Not for Publication.)

A084784 -- In re Travis M , a Person Coming Under the Juvenile Court Law.

The judgment is affirmed. Jones, P.J. We concur: Haning, J, Stevens, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Monday, October 18, 1999

DIVISION ONE

A084335 -- Bernard Schindler v. East Bay Cash Register Systems, Inc.

The judgment is reversed. Appellant is awarded its costs on appeal. Stein, J. We concur: Strankman, P.J., Marchiano, J. (Not for Publication.)

DIVISION TWO

A087890 -- County of Lake v. Donald K. Deuchar et al.

The appeals are dismissed. Lambden, J. We concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

A084405 -- Edwin Davidson v. City of Oakland., et al.

The judgment is affirmed. Haerle, J. We concur: Kline, P.J., Lambden, J. (Not for Publication.)

DIVISION THREE

A085441 -- The People v. Thomas Dwayne McClanahan.

We have reviewed the record and make the following findings: McClanahan was represented by counsel throughout the proceedings. There was no sentencing error. No other legal issues require further briefing. The judgment is affirmed. Walker, J. We concur: McGuinness, P.J., Parrilli, J. (Not for Publication.)

Monday, October 18, 1999 (continued)

DIVISION FOUR

A086807 -- In re Anthony P., a Person Coming Under the Juvenile Court Law.

Appellant was represented by counsel and received a fair hearing. Substantial evidence supports the court's findings. There was no error in the disposition. There are no meritorious issues to be argued. The dispositional order is affirmed. Hanlon, P.J. We concur: Poché, J., Reardon, J. (Not for Publication.)

DIVISION FIVE

A085723 -- Vallejo Ridgecrest Homeowners Association Inc., et al., v. City of Vallejo, et al.

We reverse the judgment. Costs on appeal to appellants. Jones, P.J. We concur: Haning, J., Stevens, J. (Not for Publication.)

A085196 -- Verl's Construction , Inc., v. County of San Mateo.

The judgment is affirmed. Jones, P.J. We concur: Haning, J., Stevens, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Tuesday, October 19, 1999

DIVISION ONE

A083836 -- The People v. Jeffrey Dean Smith.

The judgment is affirmed. Swager, J. We concur: Strankman, P.J., Marchiano, J.
(Not for Publication.)

A074357 & A072446 -- Dan Briggs et al., v. Eden Council for Hope and Opportunity.

The judgment of dismissal is affirmed. The order granting attorney's fees and costs to ECHO is affirmed. The matter is remanded to the trial court for a determination of the amount of costs and attorney's fees recoverable on appeal. Marchiano, J. We concur: Strankman, P.J., Stein, J. (Not for Publication.)

A084884 -- Sean Ralston et al., v. Frank Myers.

The order of October 8, 1998, is reversed. The matter is remanded to the superior court with instructions to vacate the judgment and set the matter for trial. Marchiano, J. We concur: Strankman, P.J., Stein, J. (Not for Publication.)

A085912 -- John D. Freeman et al., v. Richard C. Wharton et al.

The order dismissing the complaint is affirmed. Stein, Acting P.J. We concur: Swager, J., Marchiano, J. (Not for Publication.)

DIVISION THREE

A076289 -- Ira Eisenberg v. Alameda Newspapers, Inc., et al.

By The Court: The petition for rehearing is denied. McGuiness, P.J.

Tuesday, October 19, 1999 (continued)

A084465 -- The People v. Gerardo Alvarez Valencia.

The petition for rehearing is denied. McGuiness, P.J.

A083228 -- The People v. Byron Robin Poe.

By The Court: The petition for rehearing is denied. McGuiness, P.J.

A081854 -- Estate of Lydia Kalmanovitz, Deceased.

By The Court: The petition for rehearing is denied. McGuiness, P.J.

DIVISION FOUR

A080592 -- The People v. Mendes Stanley Brown;

A086546 -- In re Mendes Stanley Brown, on Habeas Corpus.

The judgment is affirmed. Defendant's petition for habeas corpus is denied.

Poché, Acting P.J. We concur: Sepulveda, J., Swager, J.* Associate Justice, Court of Appeal, First Appellate District, Division One, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution. (Certified for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Wednesday, October 20, 1999

DIVISION ONE

A088077 -- In re Kenneth S., on Habeas Corpus.

The juvenile court having failed to comply with the requirements of sections 726 and 726.5, the petition for writ of habeas corpus is granted to the extent that the portions of the judgment directing petitioner's placement in his mother's home and denying overnight visits to his father's home are vacated. The juvenile court is ordered to forthwith hold a new dispositional hearing in compliance with sections 726 and 726.5. In all other respects the judgment is affirmed and the petition for writ of habeas corpus is denied. This opinion is final as to this court immediately. (Cal. Rules of Court, rule 24 (d).)3 Swager, J. We concur: Strankman, P.J., Marchiano, J. (Not for Publication.)

DIVISION TWO

A083399 -- The People v. Pamela Coralene McCaffery.

The judgment is affirmed. Haerle, J. We concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

A083269 -- In re Thomas H., a Person Coming Under the Juvenile Court Law.

For the foregoing reasons, the judgment is affirmed. Lambden, J. We concur: Kline, P.J., Haerle, J. (Not for Publication.)

A083699 -- The People v. Jeremy John Foster.

A086456 -- In re Jeremy John Foster on Habeas Corpus.

The judgment is affirmed. The petition for writ of habeas corpus is denied. Lambden, J. I concur: Haerle, J. See dissenting opinion of Kline, P.J. (Not for Publication.)

Wednesday, October 20, 1999 (continued)

DIVISION THREE

A086130 -- The People v. Charlie Chue.

The judgment is affirmed. McGuiness, P.J. We concur: Corrigan, J., Walker, J.
(Not for Publication.)

Wednesday, October 20, 1999 (continued)

DIVISION FOUR

A084129 -- Renee Medina et al., v. Greenlawn Memorial Park et al.

The judgment is affirmed. Sepulveda, J. We concur: Hanlon, P.J., Poché, J. (Not for Publication.)

A086596 -- In re Ryan S., a Person Coming Under the Juvenile Court Law.

The order is reversed. Poché, J. We concur: Hanlon, P.J., Sepulveda, J. (Not for Publication.)

DIVISION FIVE

A085436 -- The People v. Frank Raymond Prins.

The judgment is affirmed. Haning, J. We concur: Jones, P.J., Stevens, J. (Not for Publication.)

A085011 -- The People v. David Glenn Booth.

The judgment is affirmed. Haning, J. We concur: Jones, P.J., Stevens, J. (Not for Publication.)

A082888 -- The People v. Chi Wai Anthony Mak.

The judgment is affirmed. Haning, J. We concur: Jones, P.J., Stevens, J. (Not for Publication.)

MINUTES

CALIFORNIA COURT OF APPEAL FIRST APPELLATE DISTRICT DIVISION TWO

Wednesday, October 20, 1999

The Court met at 9:30 a.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco. Present: Kline, P. J., Haerle, J., Ruvolo, J., and I. Santos, Deputy Clerk.

- A086057 The People,
 v.
 Reginald Dennis Scott.
Cause called and argued by Deputy Attorney General, Juliet B. Haley, counsel for appellant, and Jonathan Laba, counsel for respondent. Cause ordered submitted.
- A082385/
A083003 Linda L. Qualls, et al.,
 v.
 Lake Berryessa Enterprises, Inc., II, et al.;
 Stanley Parks et al.
Cause called and argued by Barry Kinman, counsel for defendants Lake Berryessa, Daniel Chester, counsel for plaintiffs Qualls, and Alan Phillips, counsel for defendants Parks. Cause ordered submitted.
- A085702 Jack McLaughlin et al.
 v.
 The California State Board of Education et al.;
 One Nation/One California et al.
Cause called and argued by Robert Pongetti, counsel for appellants, and Clarice Liu, counsel for respondents. Cause ordered submitted.
- A083628 Leonel Marquez,
 v.
 Walter Dewayne Howard et al.
Cause called and argued by Daniel Siegel, counsel for appellant, and Claudia Leed, counsel for respondents. Cause ordered submitted.
- A083034 Joseph Tsu et al.,

v.

John A. Vos.

Cause called and argued by Cecilia Tsu, in pro per, and Michael Reiser, counsel for respondent. Cause ordered submitted.

A083498

Judith M. Hardiman,

v.

The Retirement Board of the San Francisco City and County Employees' Retirement System.

Cause called and argued via teleconference, Michael Spiegel, counsel for appellant, and David Benjamin, counsel for respondent. Cause ordered submitted.

Court recessed until 1:30 p.m.

Court reconvened at 1:30 p.m. Present: Kline, P. J., Lambden, J., Ruvolo, J. and I. Santos, Deputy Clerk.

A086126

The People,

v.

Robert Eugene Wilson, Jr.

Cause called and argued by Scott Guite, counsel for appellant, and Deputy Attorney General, Moona Nandi, counsel for respondent. Cause ordered submitted.

A082782

The People,

v.

Jimmy Wayne Stanfill.

Cause called and argued by Maribeth Halloran, counsel for appellant, and Deputy Attorney General, Fran Dogan, counsel for respondent. Cause ordered submitted.

A085634

John Lee,

v.

William M. Johnson, Jr.

Cause called and argued by Mark Romeo, counsel for appellant, and Michael Jacobowitz, counsel for respondent. Cause ordered submitted.

A084874

Robert S. Duncan,

v.

Darrow M. Watt et al.

Cause called and argued by William Parkin, counsel for appellant, and Mark Haesloop, counsel for respondent. Cause ordered submitted.

Court recessed until Thursday, October 21, 1999, at 9:30 a.m.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Thursday, October 21, 1999

DIVISION ONE

A083497 -- The People v. Gary Parkinson.

The judgment is affirmed. Swager, J. We concur: Stein, Acting P.J., Marchiano, J. (Not for Publication.)

A082586 -- Howard J. Spector v. Godfrey J. Tencer.

Accordingly, the judgment is affirmed. Costs on appeal are awarded to respondent. Swager, J. We concur: Strankman, P.J., Marchiano, J. (Not for Publication.)

A085544 -- Harriet Smith v. City of Berkeley et al.

The judgment is affirmed. Swager, J. We concur: Strankman, P.J., Stein, J. (Not for Publication.)

DIVISION TWO

A083251 -- Florendo N. Anchetta, Jr. et al., v. Westborough Homeowners Improvement Association, et al.

The judgment is affirmed and costs on appeal are awarded to intervenors. Haerle, J. We concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

A088320 -- In re Shena W., a Person Coming Under the Juvenile Court Law.

The petition is denied on the merits. (Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888 [subsequent challenge by appeal barred]; § 366.26, subd. (l)(1).) Given the nearness of the section 366.26 hearing set for October 25, 1999, our decision is final as to this court immediately. (Rule 24, subd. (d).) Kline, P.J. We concur: Haerle, J., Lambden, J. (Not for Publication.)

Thursday, October 21, 1999 (continued)

A080915 -- The People v. Lawrence Alan Marshall.

A084064 -- In re Lawrence Alan Marshall.

The judgment is affirmed. The petition for writ of habeas corpus is denied.

Ruvolo, J. We concur: Kline, P.J., Haerle, J. (Not for Publication.)

A083657 -- George Straggas v. Wilbur-Ellis Company.

The judgment of the trial court is affirmed. Ruvolo, J. We concur: Kline, P.J., Haerle, J. (Not for Publication.)

A086347 -- James Kisiel et al., v. Joseph Cetwinski.

The judgment is affirmed. Ruvolo, J. We concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

DIVISION FOUR

A085665 -- In re Sophia Maria H., a Person Coming Under the Juvenile Court Law.

The judgment is affirmed. Hanlon, P.J. We concur: Reardon, J., Sepulveda, J. (Not for Publication.)

A085036 -- County of Contra Costa v. Terrance George Hawkins.

We affirm the judgment of dismissal without prejudice. Reardon, J. We concur: Hanlon, P.J., Poché, J. (Not for Publication.)

MINUTES

CALIFORNIA COURT OF APPEAL FIRST APPELLATE DISTRICT DIVISION TWO

Thursday, October 21, 1999

The Court met at 9:30 a.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco. Present: Kline, P. J., Haerle, J., Lambden, J. and S. Graham, Deputy Clerk.

- A084737 Maureen Kallins
 v.
 Julian Bentel, et al.
Cause called and argued by Phyllis Andelin, counsel for appellant and Kara Ann Smith and Julian J. Pardini, counsel for respondents. Cause ordered submitted.
- A084323 The People
 v.
 Gregory Eugene Doane
Cause called and argued by Joseph Chabot, counsel for appellant and Michael Banister, Deputy Attorney General, counsel for respondent. Cause ordered submitted.
- A084201 The People
 v.
 Endicott Clay Products Co., et al.
Cause called and argued by Lawrence Bazel, counsel for Endicott Clay, et al., David R. Bush, counsel for appellant Dipirro and Edward Weil, Deputy Attorney General, counsel for respondent State of California. Cause ordered submitted.
- A083594 Antonio M. Garcia
 v.
 Vivek Hedjmadi, et al.
Cause called and argued by Janice Mazur, counsel for appellant and Peter R. Chernik, counsel for respondent. Cause ordered submitted.
- A083456 Marsha Mather, et al.
 v.

Cornelius Shephard, et al.

Cause called and argued by Thomas Easton, counsel for appellants and Mary E. Wood and Geoffrey Beaty, counsel for respondents. Cause ordered submitted.

A084580 Rachel Ann Johnson

v.

Frank Feger, et al.

Cause called and argued by David J. Friedenberg, counsel for appellant and Charles H. Horn, counsel for respondents. Cause ordered submitted.

A082707 The People

v.

James Owen Murdaugh

Cause called and argued telephonically by Kenneth D. Noel, counsel for appellant. Sharon Wooden, Deputy Attorney General appeared in person for respondent. Cause ordered submitted.

Court recessed until 1:30 p.m.

Court reconvened at 1:30 p.m. Present: Kline, P. J., Haerle, J., Lambden, J., Ruvolo, J. and S. Graham, Deputy Clerk.

At this point in the proceedings, Presiding Justice Kline announced that he would only be participating in the first matter on calendar and that the panel for the remaining calendar would consist of Justices Haerle, Lambden and Ruvolo.

A082193 The People

v.

Henry Lee Thompson

An Order to Show Cause issued regarding C.S.R. David Disbrow who was present in the courtroom. Janice Lagerlof, counsel for appellant was present.

A083575 The People

v.

Robert Calvin Holmes, Sr.

Cause called and argued by Gary Garfinkle, counsel for appellant and

Nanette Winaker, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

- A084668 Patrick Price
v.
Salomon Smith Barney, et al.
Cause called and argued by Ben Suter, counsel for appellant and Jill Schlichtman, counsel for respondent. Cause ordered submitted.
- A081615 Mary M. Nienaber
v.
The Pape Group, Inc., et al.
Cause called and argued by Daniel U. Smith, counsel for appellant, Nienaber and Stevan Adelman, counsel for appellant The Pape Group, Inc. Cause ordered submitted.
- A081206 Estate of Theodore J. Schmidt, Deceased.
Maurice Lanning, et al.
v.
Shriners Hospitals for Children, et al.
Cause called and argued by M. Armon Cooper, counsel for appellant Shriners' Hospitals, Edward Regalia, counsel for appellant, Leones, William B. Boone, counsel for respondent Lanning, et al. and Michael J. Levy, counsel for respondent Raymond Levy, etc. Cause ordered submitted.
- A085112 The People
v.
John Charles Poshepny
Cause called and argued telephonically by Janet Gaard, Deputy Attorney General, counsel for appellant. Jonathan Soglin, counsel for respondent appeared in person. Cause ordered submitted.

Court adjourned.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Friday, October 22, 1999

DIVISION ONE

A076016 -- Patricia A. McColm v. Carter Hawley Hale, Inc., et al.

Order Modifying Opinion and Denying Rehearing [No Change in Judgment].

The Court: It is ordered that the opinion filed herein on September 22, 1999, be modified in the following particulars: (SEE ORDER.) There is no change in the judgment. The petition for rehearing is denied. Swager, Acting P.J.(Not for Publication.)

DIVISION TWO

A083556 -- Eric Armitage v. David Criley.

The judgment is affirmed. Respondent shall recover his costs on appeal. (Rule 26, Cal. Rules of Court.) Lambden, J. We concur: Haerle, J., Ruvolo, J. (Not for Publication.)

A084516 -- The People v. John Edward James III.

The judgment is affirmed. Ruvolo, J. We concur: Kline, P.J., Lambden, J. (Not for Publication.)

DIVISION THREE

A085542 -- Phong T. Tran et al., v. County of Alameda et al.

We affirm, and award costs to respondents. Walker, J. We concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

Friday, October 22, 1999 (continued)

A082149 -- The People v. Fernando Dominguez.

A085654 -- In re Fernando Dominguez.

We reverse the judgment of conviction entered against Fernando and remand for further proceedings consistent with this opinion. We deny the habeas corpus petition as moot. Walker, J. We concur: Corrigan, Acting P.J., Parrilli, J. (Not for Publication.)

A081437 -- Heather Preston v. State Board of Equalization.

The trial court was correct in finding that appellant transferred tangible personal property to the three entities and in holding that she failed to sustain her burden of proving that her gross receipts from the three entities were not subject to California Sales and Use Tax. We affirm the judgment entered in favor of respondent Board, which shall recover its costs on appeal. Walker, J. We concur: Corrigan, Acting P.J., Parrilli, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Monday, October 25, 1999

DIVISION TWO

A079863 -- Marilyn Merrill et al., v. Navegar, Inc.

Order Modifying Opinion No Change in Judgment. The Court: It is ordered that the opinion filed herein on September 29, 1999, be modified in the following particulars: (SEE ORDER) Kline, P.J. (Certified for Publication.)

DIVISION THREE

A084094 -- The People v. Peter Richard Zandrino.

We reverse the trial court's order and judgment denying appellant's motion to reinstate the complaint. The matter is remanded to the trial court for reinstatement of the complaint. Walker, J. We concur: Corrigan, Acting P.J., Parrilli, J. (Not for Publication.)

DIVISION FOUR

A081141 -- The People v. Douglas William Hysell.

A084188 -- In re Douglas William Hysell, on Habeas Corpus.

By The Court: This court's opinion filed September 28, 1999, is modified as follows: (SEE OPINION.) This modification does not effect a change in the judgment. Appellant's petition for rehearing filed October 5, 1999, is denied. Hanlon, P.J.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Tuesday, October 26, 1999

DIVISION ONE

A083733 -- The People v. Robert Williams.

The judgment of conviction is affirmed. Marchiano, J. We concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

A086033 -- In re Osbaldo F. a Person Coming Under the Juvenile Court Law.

There are no issues that require further briefing. The orders of the juvenile court are affirmed. Marchiano, J. We concur: Strankman, P.J., Swager, J. (Not for Publication.)

DIVISION FOUR

A085832 -- The People v. Dante Lamar Pettis.

The judgment is affirmed. Poché, J. We concur: Hanlon, P.J. Reardon, J. (Not for Publication.)

A080555 -- Judith Brodsky, Individually and as Guardian ad Litem, etc., v. Boccardo Law Firm et al.

The judgment is affirmed. Reardon, J. We concur: Hanlon, P.J., Sepulveda, J. (Not for Publication.)

Tuesday, October 26, 1999 (continued)

A083712 -- The People v. Alphonso Eddie Roundtree.

The judgment is affirmed. Hanlon, P.J. We concur: Reardon, J., Sepulveda, J.
(Certified for Partial Publication.)

A084529 -- In re John C., a Person Coming Under the Juvenile Court Law.

The dispositional order is affirmed. Hanlon, P.J. We concur: Poché, J., Reardon, J. (Not for Publication.)

A085024 -- Gary Anderson v. R.B. Cox.

For all the foregoing reasons, the order of the trial court is affirmed. Sepulveda, J. We concur: Poché, Acting P.J., Reardon, J. (Not for Publication.)

A084109 -- The People v. Reginald Lee Smith.

The judgment is affirmed. Sepulveda, J. We concur: Hanlon, P.J., Poché, J. (Not for Publication.)

A084485 -- Richard D. Wilson et al., v. State Board of Education, California Network of Educational Charters.

The Charter Schools Act rests on solid constitutional ground. We affirm the judgment. Reardon, J. We concur: Hanlon, P.J., Poché, J. (Certified for Publication.)

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION THREE

October 26, 1999

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California.

Present: McGuinness, P.J., Parrilli, J., Walker, J. and I. Calanoc, Deputy Clerk.

- A084888 Russell Keimer,
 v.
 Buena Vista Books, Inc., et al.
Cause called and argued by Jeffrey Lerman, counsel for appellant, and
Timothy Carr, counsel for respondents. Cause ordered submitted.
- A083850 The People,
 v.
 Nicholas Charles Joyner.
Cause called and argued by Michelle Thomson, counsel for appellant, and
Deputy Attorney General Catherine Rivlin, counsel for respondent. Cause
ordered submitted. Justice Parrilli left the bench at this point.
- A085007 Louis Dupont,
 v.
 Pittsburgh Corning Corporation.
The court reconstituted itself to include McGuinness, P.J., Corrigan, J. and
Walker, J. Cause called and argued by James Geagan, counsel for
appellant, and John Katerndahl, counsel for respondent. Cause ordered
submitted.
- A080512 Yakov Gelfenbeyn
 v.
 Safeway, Inc.
Cause called and argued by Jaques Adler, counsel for appellant, and J.
Scott McNamara, counsel for respondent. Cause ordered submitted. At
this point, Justice McGuinness left the bench.
- A082666 County of Solano, et al.
 v.

Vallejo Redevelopment Agency, et al.

The court reconstituted itself to include Corrigan, J., Walker, J. and Parrilli, J. Cause called and argued by Iris Yang, counsel for appellants, and William Owen and Stuart Flashman, counsel for respondents. Cause ordered submitted.

A080461 State Farm Mutual Automobile
Company, et al.,

v.

Chuck Quackenbush.

Cause called and argued by Michael Strumwasser, counsel for appellant, and Paul Alexander, counsel for respondents. Cause ordered submitted.

Court recessed until 1:30 p.m.

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION THREE

Tuesday, October 26, 1999

Court reconvened at 1:30 p.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California.

Present: McGuinness, P.J., Corrigan, J., Walker, J. and C. Turner, Deputy Clerk.

A082730 Ning-Ping Chan

v.

Regents of the University of California

Cause called and argued by Louis A. Highman, counsel for appellant, and Susan Kumagai, counsel for respondent. Cause ordered submitted.

A083659 Clarence Wells

v.

Wilbur Ellis Wells

Cause called and argued by James Geagan, counsel for appellant, and Patrick Becherer, counsel for respondent. Cause ordered submitted.

Justice Walker left the bench and Justice Parrilli took her place on the bench.

A081295 The People

v.

Donald Montross Gibson

Cause called and argued by Candace Hale, counsel for appellant, and Michael Banister, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

court adjourned

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Wednesday, October 27, 1999

DIVISION TWO

A086209 -- In re Michael M., a Person Coming Under the Juvenile Court Law.

The order of the juvenile court terminating appellant's parental rights is affirmed. Kline, P.J. We concur: Lambden, J., Ruvolo, J. (Not for Publication.)

A088334 -- Terry Reese v. Superior Court of Alameda County, Oakland Football Marketing Association, R.P.I.

By the Court: The petition for writ of mandate/stay is denied. Kline, P.J.

DIVISION THREE

A086932 -- The People v. Ronald Jackson.

There are no meritorious issues to be argued. The judgment is affirmed. Corrigan, J. We concur: McGuinness, P.J., Walker, J. (Not for Publication.)

A086758 -- In re Tyrone S.H., a Person Coming Under the Juvenile Court Law.

There are no meritorious issues to be argued. The judgment is affirmed. Corrigan, Acting P.J. We concur: Parrilli, J., Walker, J. (Not for Publication.)

A082943 -- The Insurance Company of the State of Pennsylvania, v. Argonaut Insurance Company et al.

The order staying all arbitration proceedings is reversed as mandated by section 2 of the FAA. The orders appealed from are affirmed in all other respects and the action is remanded to the trial court for further proceedings. Each party is to bear its own costs on appeal. Corrigan, J. We concur: McGuinness, P.J., Walker, J. (Not for Publication.)

Wednesday, October 27, 1999 (continued)

A084555 -- In re Marriage of Jane O. Rising and David W. Rising.

The order modifying spousal support is reversed. Costs will be shared equally between the parties. Parrilli, J. We concur: McGuiness, P.J., Walker, J. (Not for Publication.)

A084888 -- Russell Keimer v. Buena Vista Books., et al.

The entry of judgment is reversed and the matter is remanded for further proceedings. Appellant shall recover his costs on appeal. Walker, J. We concur: McGuiness, P.J., Parrilli, J. (Certified for Publication.)

DIVISION FIVE

A084212 -- Dennis Roberts v. Pacific Bell.

The judgment is affirmed. Haning, J. We concur: Jones, P.J., Stevens, J. (Not for Publication.)

MINUTES
CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION FOUR

Wednesday, October 27, 1999

The Court met at 9:30 a.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco. Present: Hanlon, P.J., Poche, J., and Reardon, J.; Channing Hoo, Deputy Clerk; Greg Baarts, Bailiff.

Presiding Justice Daniel M. Hanlon announced from the bench that this court will adjourn today in memory of Retired California Supreme Court Associate Justice Raymond L. Sullivan, who recently passed away. Prior to his appointment to the Supreme Court, Justice Sullivan had served on the Court of Appeal for the First Appellate District, Division One.

A085945 In re Arturo D., a minor.
 People
 v.
 Arturo D.
Cause called. Alex Green argued for appellant Arturo D.
Christopher Grove argued for respondent. Cause submitted.

At this point, the court reconstituted itself to include Poche, Acting P.J., Reardon, J. and Sepulveda, J.

A082495 People v. Richard Clyde Schwaner
A087116 In re Richard Clyde Schwaner on Habeas Corpus
Causes called. Randi Covin argued for appellant/petitioner Schwaner.
Clifford Thompson argued for respondent. Causes submitted.

A081211 Delbert Davis et al. v. Owens Corning Fiberglas Corp.
A081223 Cordis Jones v. Owens Corning Fiberglas Corp.
A081235 Robert Mori v. Owens Corning Fiberglas Corp.
Causes called. Brad Westlye argued for appellant Owens. Bryce Anderson teleargued for respondents. Causes submitted.

The Court recessed at 10:41 a.m.

Courtroom Minutes
Division 4
Wednesday, October 27, 1999

Court reconvened at 2:00 p.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco. Present: Hanlon, P.J., Poche, J., Reardon J., Jim Campbell, Deputy Clerk and CHP Officer Terry Tracy, Bailiff.

A083127 Al Holding Company, LLC,
 appellant,
 v.
 O'Brien & Hicks, Inc.,
 respondent.

Cause called. Peter Sirkin argued on behalf of appellant, Al Holding Co. LLC. Thomas Foley argued on behalf of respondent. Cause submitted.

A084478 Robert Pease et al.,
 appellants,
 v.
 John Gigounas et al.,
 respondents.

Cause called. Clark Leslie, argued on behalf of appellants, Robert Pease et al.. Basil Plastiras, argued on behalf of respondents. Cause submitted.

At this time Sepulveda, J., replaced Reardon, J. on the bench.

Continued next page.

A084396 Bayshore Sanitary District,
appellant,
v.
City of Brisbane,
respondent.

Cause called. Lynne Esselstein argued on behalf of appellant, Bayshore Sanitary District. Steven Baird argued on behalf of respondent. Cause Submitted.

The Court adjourned at 3:25 p.m.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Thursday, October 28, 1999

DIVISION ONE

A086651 -- The People v. George David McCoy.

The order revoking probation is affirmed. Swager, J. We concur: Strankman, P.J., Marchiano, J. (Not for Publication.)

DIVISION TWO

A084901 -- David J. Oranen, D.C., v. Board of Chiropractic Examiners of the State of California.

The judgment is affirmed. Haerle, J. We concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

Thursday, October 28, 1999 (continued)

A083456 -- Marsha Mather et al., v. Cornelius Shephard et al.

The judgment is affirmed. Costs on appeal to respondents Shephard and CDC. Respondent Shephard's request for sanctions for a frivolous appeal is denied. Kline, P.J. We concur: Haerle, J., Lambden, J. (Not for Publication.)

DIVISION THREE

A083850 -- The People v. Nicholas Charles Joyner.

The judgment is affirmed. McGuiness, P.J. We concur: Parrilli, J., Walker, J. (Not for Publication.)

A082666 -- County of Solano et al., v. Vallejo Redevelopment Agency et al.

The award of attorney fees in the amount of \$19,371.31 to Homeacres Association is reversed. We award costs on appeal to the County. In all other respects the trial court's judgment is affirmed. Walker, J. We concur: Corrigan, Acting P.J., Parrilli, J. (Certified for Partial Publication.)

A085007 -- Louis Dupont v. Pittsburgh Corning Corporation.

The judgment is reversed. PCC to bear costs on appeal. McGuiness, P.J. We concur: Corrigan, J., Walker, J. (Not for Publication.)

A082730 -- Ning-Ping Chan v. Regents of the University of California.

The judgment is affirmed. Corrigan, J. We concur: McGuiness, P.J., Walker, J. (Not for Publication.)

Thursday, October 28, 1999 (continued)

DIVISION FOUR

A081211 -- Delbert Davis v. Owens-Corning Fiberglass Corporation.

A081223 -- Cordis Jones v. Owens-Corning Fiberglass Corporation.

A081235 -- Robert Mori v. Owens-Corning Fiberglass Corporation.

We affirm the judgment of liability but reverse the award of damages and remand for further proceedings as necessary to comply with Proposition 51. Parties to bear their own costs on appeal. Reardon, J. We concur: Poché, Acting P.J., Sepulveda, J. (Not for Publication.)

A086102 -- Richard Perry v. Hammond David Gowen.

The purported appeal is dismissed. Reardon, J. We concur: Hanlon, P.J., Poché, J. (Not for Publication.)

A085449 -- The People v. Michael Duskin.

The judgment is affirmed. Reardon, J. We concur: Hanlon, P.J., Poché, J. (Not for Publication.)

A086654 -- The People v. Ramon Ortega Lopez.

The judgment is affirmed. Sepulveda, J. We concur: Hanlon, P.J., Reardon, J. (Not for Publication.)

A085984 -- The People v. Shajuana Perry.

The judgment is affirmed. Hanlon, P.J. We concur: Reardon, J., Sepulveda, J. (Not for Publication.)

MINUTES
COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

DIVISION FIVE

Thursday October 28, 1999

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Jones, P.J.; Haning, J., Stevens, J. and Richard H. Sandvik and Channing Hoo, Deputy Clerks.

- A084033 Wongco
 v.
 City and County of San Francisco
 Cause called and argued by Mark Mosley, counsel for appellant, and by
 Sandra J. Shapiro, counsel for respondent. Cause ordered submitted.
- A086234 Consumer Justice Foundation
 v.
 LaPetite Academy, Inc.
 Cause called and argued by Douglas W. Grinnell, counsel for appellant,
 and by Nicholas W. Heidt, counsel for respondent. Cause ordered
 submitted.
- A085540 Maroi E. Falco
 v.
 Craig Ragg et al
 Cause called and argued by Gregory D. Walker, counsel for appellant, and
 by Jon B. Eisenberg and Lois Lindstrom , counsel for respondent. Cause
 ordered submitted.
- A085276 Cynthia M. Judy
 v.

Jeffrey T. McDonagh

Cause called and argued by Barry K. Tagawa, counsel for appellant, and by Christine A. Chorney, counsel for respondent. Cause ordered submitted.

A083784 Milton Wise et al.
v.
Pacific Gas and Electric Company
Cause called and argued by Joseph H. Ainley, counsel for appellant, and by William L. Stern, counsel for respondent. Cause ordered submitted.

A086605 Jawj Greenwald
v.
Airtouch Communications, Inc.
Cause called and argued by Jawj Greenwald, appellant in pro per, and by Douglas A. Kahn, counsel for respondent. Cause ordered submitted.

A084563 Civil Service Employees Insurance Company
v.
William Day et al.
Cause called and argued by Douglas M. Carasso, counsel for appellant, and by Peter O. Israel, counsel for respondent. Cause ordered submitted.

A086262 Richard Park Smith, D.V.M.
v.
California Veterinary Clinic Board
Cause called and argued by Thomas J. Gundlach, counsel for appellant, and by William L. Paris, counsel for respondent. Cause ordered submitted.

A087669 J. Brent Wilkey et al.
v.
Superior Court of San Francisco

Vision Integrated Marketing et al.
Cause called and argued by Andrew J. Weill, counsel for petitioners, and by James W. Boswell, counsel for real parties in interest. Cause ordered submitted.

A085931 David Earl Pope
v.
Rodney Mitchell et al.
Cause called and argued by David Earl Pope appellant in pro per, and by

Anita L Grant and Frank E. Preston, counsel for respondent. Cause ordered submitted.

A084799 The People
 v.
 Lonnie Cobbs, Jr.
Cause called and argued by William P. Cole, counsel for appellant, and by
Nanette Winaker, Deputy Attorney General, counsel for respondent. Cause
ordered submitted.

A085824 The People
 v.
 Leland Ray Amos
Cause called and argued by Christopher J. Blake, counsel for appellant, and
by Jeffrey M. Laurence, Deputy Attorney General, counsel for respondent.
Cause ordered submitted.

Court adjourned at 2:25 p.m.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Friday, October 29, 1999

DIVISION ONE

A085633 -- Hillside Park East Homeowners Association, Inc., v. Arthur R. Nicolaisen.

The summary judgment is affirmed. Marchiano, J. We concur: Strankman, P.J., Stein, J. (Not for Publication.)

DIVISION TWO

A085782 -- The People v. David Wayne Ball.

The judgment is affirmed. Lambden, J. We concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

A086013 -- In re Tyehimba G., a Person Coming Under the Juvenile Court Law.

Judgment affirmed. Ruvolo, J. We concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

A086446 -- The People v. Manuel Palacio.

The judgment is affirmed. Lambden, J. We concur: Kline, P.J., Haerle, J. (Not for Publication.)

Friday, October 29, 1999 (continued)

A083415 -- Caryl Jessica Kerollis v. California State Department of Motor Vehicles.

A084708 -- Clifford F. Schwarberg, Jr. v. California State Department of Motor Vehicles.

A084738 -- Sara K. Giddins v. California State Department of Motor Vehicles.

The judgments are reversed, and the cases are remanded to the trial court with directions to deny the petitions and to reinstate the DMV's suspension orders. The DMV shall recover its costs on appeal. Lambden, J. We concur: Kline, P.J., Haerle, J. (Certified for Publication.)

Friday, October 29, 1999 (continued)

A088428 -- In re Jorge Salmeron, on Habeas Corpus.

By The Court: We have reviewed petitioner's confidential file, including the confidential document dated 8/29/95. The petition for writ of habeas corpus is denied. Kline, P.J.

A088746 -- In re Keith Thomas, on Habeas Corpus.

By The Court: The petition for writ of habeas corpus is denied. Petitioner must first exhaust administrative remedies, and then seek relief, if any, in the trial court, and appellate review in the Fifth District of Appeal. Kline, P.J.

A088743 -- In re David C. Smith, on Habeas Corpus.

By The Court: The petition for writ of habeas corpus is denied. Kline, P.J.

A081327 -- Marin Country Club v. Bank of San Francisco et al.

By The Court: Respondents' motion to the stay issuance of the remittitur is granted (rule 25(c), California Rules of Court).

By declaration of counsel, respondents inform us they did not receive this court's opinion until October 25, 1999 when, in response to counsel's inquiry about the decision, our clerk mailed a second copy.

The clerk of this court is directed forthwith to refile this court's opinion, restarting the period for seeking rehearing in this court and review in the California Supreme Court.. Kline, P.J.

DIVISION THREE

A086939 -- In re Lamar H., a Person Coming Under the Juvenile Court Law.

The judgment is affirmed. McGuiness, P.J. We concur: Parrilli, J., Walker, J.
(Not for Publication.)

Friday, October 29, 1999 (continued)

A084659 -- Kathleen Bremner, et al., v. Donald Schlogel.

Accordingly, we reverse the court's award of prejudgment interest as to Schlogel. The matter is remanded to the superior court to determine whether the award constitutes liquidated damages and, based on that determination, to take further action under the appropriate section of the Civil Code. Each side is to bear its own costs on appeal. Corrigan, J. We concur: McGuinness, P.J., Walker, J. (Not for Publication.)

A085052 -- The People v. Taiwan Umze Walker.

The judgment is affirmed. McGuinness, P.J. We concur: Parrilli, J., Walker, J. (Not for Publication.)

A086242 -- Eugene Martin, Sr., v. Karen S. Johnson, as Administrator, etc., et al.

The judgment is affirmed. McGuinness, P.J. We concur: Corrigan, J., Parrilli, J. (Not for Publication.)

A083420 -- The People v. Dolores Mayra.

The judgment is affirmed. Corrigan, J. We concur: McGuinness, P.J., Walker, J. (Not for Publication.)

DIVISION FOUR

A083253 -- Feather River State Bank v. Valley West Packaging & Supply, Inc., Robert C. Greeley.

The order is affirmed with costs to respondents Robert Greeley and Feather River State Bank. Hanlon, P.J. We concur: Reardon, J., Sepulveda, J. (Not for Publication.)

A082495 -- The People v. Richard C. Schwaner.

A087116 -- In re Richard C. Schwaner on Habeas Corpus.

For all the foregoing reasons, the judgment of the trial court is affirmed. The petition for writ of habeas corpus is denied. Sepulveda, J. We concur: Poché, Acting P.J., Reardon, J. (Not for Publication.)

Friday, October 29, 1999 (continued)

A085018 -- Patricia Ann Fairbank v. City of Mill Valley et al., Jack Lee et al., R.P.I. and Respondents.

Order Modifying Opinion and Denying Rehearing [No Change in Judgment]

The Court: It is ordered that the opinion filed herein on September 30, 1999, be modified as follows: (SEE ORDER) This modification does not effect change in the judgment. The petition for rehearing is denied. Poché, Acting P.J. (Certified for Partial Publication.)

A084962 -- Kenneth Russo v. County of San Mateo et al.

The judgment is affirmed. Sepulveda, J., We concur: Hanlon, P.J., Poché, J. (Not for Publication.)

A088244 -- Sherry R., v. The Superior Court of Alameda County, Social Services Agency et al., R.P.I.

The order terminating reunification services and setting a selection and implementation hearing (§ 366.26) complies with the governing law and is supported by substantial evidence. The petition for an extraordinary writ is denied on the merits. § 366.26, subd. (l); Cal. Rules of Court, rule 39.1B(o); see *In re Julie S.* (1996) 48 Cal.App.4th 988, 990-991.) our decision is final in this court immediately. Sepulveda, J. We concur: Poché, Acting P.J., Reardon, J. (Not for Publication.)

A083127 -- Al Holding Company v. O'Brien & Hicks, Inc.

The judgment of dismissal is affirmed. Poché, J. We concur: Hanlon, P.J., Reardon, J. (Certified for Publication.)

A081785 -- The People v. Andre Lamarr Jackson.

The judgment is affirmed. Hanlon, P.J. We concur: Reardon, J., Sepulveda, J. (Not for Publication.)

Friday, October 29, 1999 (continued)

DIVISION FIVE

A083798 -- The People v. David Armando Quintanilla.

The judgment of conviction is affirmed. Stevens, J. We concur: Jones, P.J., Haning, J. (Not for Publication.)

A085155 -- In re Richard B., Jr., et al a Person Coming Under the Juvenile Court Law.

The order is affirmed. Stevens, J. We concur: Jones, P.J., Haning, J. (Not for Publication.)

A084810 -- Underwriters at Lloyd's London et al., v. William Seroy Group, Inc.

The judgment is affirmed. Stevens, J. We concur: Jones, P.J., Haning, J. (Not for Publication.)